

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

Crl.MC.No. 266 of 2007()

CRMP.5577/2006 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA
CRIME NO.240/06 POLICE STATION, KALPETTA
.....

PETITIONER: ACCUSED:

SAINUDEEN, S/O.MUHAMMED,
PALAKKAD VEEDU, THENJIPALAM,
MALAPPURAM.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SMT.CELINE JOSEPH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.266 of 2007

Dated this the 7th day of February 2007

O R D E R

The petitioner is the first accused in three separate crimes, all registered interalia under Section 380 I.P.C. He was arrested and continues in custody from the date of his arrest. The precise date of arrest is not conveyed to this court by the learned counsel for the petitioner or the learned Public Prosecutor. It is submitted that the petitioner has been in custody for more than ninety days. He has been granted bail in these three cases as per the common order dated 27/11/2006. He was directed to be released on bail subject to conditions by the learned Chief Judicial Magistrate, Kalpetta.

2. The petitioner has come to this court complaining that the conditions imposed are onerous and they virtually deny and deprive the petitioner of an opportunity to take advantage of the order granting bail. In these circumstances, it is prayed that the conditions may be modified.

3. The first condition sought to be modified is that separate sureties must be produced by the accused in each of

these three cases. This is too onerous a condition and not, at any rate, justified, it is submitted.

4. I find merit in that objection. I am satisfied that insistence on separate sureties - increasing the crowd of sureties need not be made. The second condition imposed that the sureties must be separate in each case is hence set aside.

5. The third condition imposed is that the sureties must produce either solvency certificate or the title deed of their property which will be retained in court till disposal of this case. In the peculiar facts and circumstances of this case, since the accused is shown to be a habitual offender involved in several crimes, the details of which are given in the impugned order, I am satisfied that the insistence of condition No.3 that solvency certificate or title deeds must be produced and will be retained in court does not warrant any interference.

6. Condition No.4 insists that the sureties offered by the petitioner should not be professional sureties. That evidently is the purpose in imposing condition No.4 which insists that the sureties should not have taken any accused on bail at present in any other cases. This condition virtually denies the petitioner an opportunity to get his mother to act as a surety for him. I make it clear that if the surety is a close relative of the petitioner, this

condition No.4 shall not apply to such surety.

7. Condition Nos. 5 and 7 which are sought to be deleted, oblige the petitioner to report before the investigating officer between 10 a.m and 12 noon on all Saturdays and not to leave the jurisdiction of the learned Chief Judicial Magistrate, Kalpetta without the previous permission of the court. I find nothing wrong in the insistence that the petitioner must make himself available before the S.H.O once in a week. However, I am satisfied that condition No.7 can be modified and it can be directed that the petitioner must remain within the Sessions Division of Manjeri until further orders and should not leave that jurisdiction without the prior permission of the learned Magistrate except for the purpose of complying with condition No.5. The address of his place of residence and change of address, if any, shall be communicated to the investigating officer within a period of five days of his release from custody.

8. This Criminal Miscellaneous Case is allowed to the above extent. Conditions imposed are modified to the above extent.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006